

A. G. Contract No. KR93 3112TRN
JPA No. 93-194
ECS File: JPA 94-94
Project: RS-274(11)P
Fund: SS279 01C
Section: Ash Creek Road
Ft. Grant - Brookerson Rds.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
GRAHAM COUNTY, ARIZONA

THIS AGREEMENT is entered into 14 FEBRUARY, 1993,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and
GRAHAM COUNTY acting by and through its BOARD OF SUPERVISORS
(the "County").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 and 28-112 to enter into this agreement and has
by resolution, a copy of which is attached hereto and made a
part hereof, resolved to enter into this agreement and has
delegated to the undersigned the authority to execute this
agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes
Section 11-251 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has
authorized the undersigned to execute this agreement on behalf
of the County.

3. Congress has authorized appropriations for, but not
limited to, the construction of streets and primary, feeder and
farm-to-market roads; the replacement of bridges; the
elimination of roadside obstacles; and the application of
pavement markings.

4. Such project within the boundary of the County has
been selected by the County; the field survey of the project
has been completed; and the plans, estimates and specifications
have been prepared and, as required, submitted to the Federal
Highway Administration ("FHWA") for approval.

NO. <u>18406</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>02/14/94</u>
<u>Richard H. Hines</u> Secretary of State
By <u>Licky V. Greenwood</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the County by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement and the estimated cost are as follows: GRADING, DRAINAGE AND PAVING.

Estimated Project Cost (incl. 15% CE cost)	\$1,684,527.00
Federal Aid Funds @ 94.3% of \$1,166,489.00	\$1,100,000.00
Non Federal-Aid Funds	\$ 488,509.00
Graham County Funds @ 5.7% of \$1,684,527.00	\$ 96,018.00
Two percent surcharge	\$ 33,691.00
Total Graham County Funds	\$ 618,488.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the County, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said contract or in this agreement and will request the maximum federal funds available.

b. The State will furnish County with a copy of the proposed Project Agreement to be entered into by the State and FHWA. Upon approval of the terms and conditions of the Project Agreement, the agreement shall be incorporated in and made a part of this agreement by reference and shall have the same force and effect as though fully written herein.

c. Should some unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of County's deposit unless and until so authorized in writing by the County.

2. Prior to the solicitation of bids, the County shall deposit with State funds in the amount determined by the State to be necessary to match federal funds in the ratio required.

Upon completion of the construction contract, the State shall return to the County any part of the funds deposited by County remaining after County's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The County shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been acquired.

4. The County shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom.

5. The County shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the County shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the County.

6. Upon completion of construction, the County shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

7. The County shall mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

8. By such regulation as it may by ordinance provide, the County shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The County assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and County, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, County agrees to furnish and provide State with County funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Graham County
County Manager
800 Main Street
Safford, AZ 85546

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

GRAHAM COUNTY, ARIZONA

STATE OF ARIZONA

Department of Transportation

By *Delbert Householder*
DELBERT HOUSEHOLDER, Chairman
Board of Supervisors

By *Robert P. Mickelson*
ROBERT P. MICKELSON
Chief Deputy State Engineer

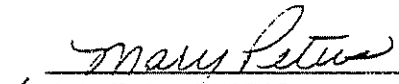
ATTEST

By *Barbara Felix*
BARBARA FELIX
Clerk of the Board

RESOLUTION

BE IT RESOLVED on this 14th day of December 1993, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with Graham County for the purpose of defining responsibilities for the design and construction of roadway improvements to Ash Creek Road, Fort Grant Road to Brookerson Road.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Chief Deputy State Engineer for approval and execution.


for LARRY S. BONINE
Director

RESOLUTION
1994-01

A RESOLUTION OF THE GRAHAM COUNTY BOARD OF SUPERVISORS RELATED TO THE ASH CREEK
ROAD IMPROVEMENT PROJECT

WHEREAS, the Board of Supervisors desire to upgrade and pave a portion of Ash Creek Road located in southwest Graham County and,

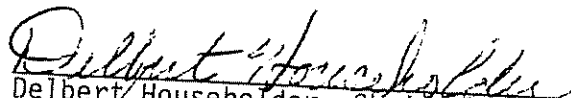
WHEREAS, the upgrade and paving of Ash Creek Road from the intersection of Brookerson Road to a point approximately three miles west will contribute to continued economic development along that portion of Ash Creek Road and,

WHEREAS, the Arizona Department of Transportation through an agreement with Graham County will administer the Ash Creek Road Project


NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors through adoption of this resolution approves Agreement Improvement No. JPA 93-194 between Graham County and the Arizona Department of Transportation and authorizes the Chairman to sign necessary agreements.

PASSED AND ADOPTED this 3rd day of January, 1994.

GRAHAM COUNTY BOARD OF SUPERVISORS


Delbert Householder, Chairman


Haynes Moore, Member


Terry J. Bingham, Member

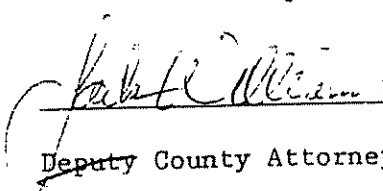
ATTEST:


Barbara Felix, Board Clerk

APPROVAL OF THE GRAHAM COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement between the STATE OF ARIZONA, acting through the DEPARTMENT OF TRANSPORTATION and GRAHAM COUNTY, and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 3rd day of January, 1994, ~~1993~~



Deputy County Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR93-3112-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 9th day of February, 1994.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
8365G